

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF GEORGIA

REVISION APPROVED BY THE JUDICIAL  
COUNCIL OF THE 11TH CIRCUIT, MAY 6, 2009  
FOR IMPLEMENTATION OF  
THE CRIMINAL JUSTICE ACT OF 1964, AS AMENDED

PREAMBLE

Pursuant to the provisions of the Criminal Justice Act of 1964, 18 U.S.C. 3006A, as amended by the Act of October 14, 1970, P.L. 91-447, 91st Cong., 84 Stat. 916, and as amended by the Act of November 14, 1986, Title I, P.L. 99-651, and subject to the approval of the Judicial Council of the United States Court of Appeals for the Eleventh Circuit, the United States District Court for the Southern District of Georgia adopts the following amended plan for the adequate representation of any person otherwise financially unable to obtain adequate representation:

I. Representation shall be provided for any financially eligible person who --

A. is charged with a felony or a misdemeanor (a petty offense as defined in section 3006(a)(2)(A) of Title 18 U.S.C.;

B. is a juvenile alleged to have committed an act of juvenile delinquency as defined in section 5031 of Title 1845C;

C. is charged with a violation of probation;

D. is under arrest, when such representation is required by law;

E. is entitled to appointment of counsel in parole proceedings under chapter 311 of Title 18 U.S.C.;

F. is subject to a mental condition hearing under chapter 313 of Title 18 U.S.C.;

G. is in custody as a material witness;

H. is entitled to appointment of counsel under the sixth amendment to the Constitution; or

I. faces loss of liberty in a case, and Federal law requires the appointment of counsel.

II. Whenever the United States Magistrate or the Court determines that the interests of justice so require, representation may be provided for any financially eligible person who --

A. is charged with a petty offense for which a sentence to confinement is authorized; or

B. is seeking relief under section 2241, 2254, or 2255 of Title 28.

III. Private attorneys shall be appointed from the roll of attorneys in these cases.

Representation shall include counsel and investigative, expert, and other services necessary for an adequate defense.

This plan is applicable to each division in the district. It supersedes both the original plan which has been in effect in this district since February 11, 1971, and the amendments approved by the Judicial Council of the United States Court of Appeals for the Fifth Circuit on February 10, 1977, December 18, 1981, and by the Eleventh Circuit Court of Appeals on May 6, 2009.

## **I.**

### **A. PROVISIONS FOR FURNISHING COUNSEL**

This Plan provides for the furnishing of legal services by private counsel. The roll of attorneys as provided to the judicial officers by the Clerk's Office shall constitute the "panel of attorneys" as that term is used in this Plan.

The full-time United States Magistrates located at Augusta and Savannah, Georgia, shall hereafter make appointments for representation pursuant to the Criminal Justice Act of 1964, as amended, for cases arising in the Augusta and Savannah Divisions respectively, for the Southern District of Georgia, and that a Judicial Officer of this Court or a part-time U. S. Magistrate appoint counsel pursuant to the Criminal Justice Act of 1964, as amended, in the remaining divisions of the Southern District of Georgia; namely, Dublin, Statesboro, Waycross, and Brunswick.

## **II. PANEL OF ATTORNEYS**

The panel of attorneys subject to appointment under the Criminal Justice Act shall consist of all members of the bar of the United States District Court for the Southern District of Georgia. See LR 83.11 (all members of the bar of this court “are expected to provide legal services, on occasion, to indigents.”). The judges of this court shall ensure that only qualified and competent legal counsel are appointed to represent financially eligible persons, giving preference to those attorneys who have expressed a willingness to represent indigents entitled to counsel under the Criminal Justice Act. The clerk shall maintain a current list of attorneys admitted to practice before this court and shall maintain a record of appointments made by the judges of this court. Appointments from the list of panel attorneys shall be at the court’s discretion, taking into consideration the attorney’s past appointments, the nature and complexity

of the case, the attorney's experience and ability, and geographical considerations. No member of the panel of attorneys shall be entitled to appointment in a particular case or to appointment in any criminal case. Every effort will be made to distribute the work fairly among the members of the bar.

The court will establish a standing committee to advise and assist the judges in the selection of appropriate counsel for indigents entitled to representation under the provisions of the Criminal Justice Act. The committee, or divisional subcommittees, shall consist of a district and magistrate judge appointed by the chief judge, the "resource counsel" who have been selected by the court to assist panel attorneys, and a number of private attorneys who regularly practice before this court. This committee shall review the panel of attorneys and make recommendations to the court regarding the appointment process and management of the panel. The committee shall meet at least once a year and its members shall serve at the pleasure of the chief judge.

The members of this court's bar who serve as part-time state court

prosecutors and part-time state judicial officers are eligible for appointment in criminal cases where the appointment does not create an actual conflict of interest.

The Georgia bar rules impose a special legal education requirement for attorneys who participate in litigation. See State Bar Rule 8-104 (d)(2)(requiring three hours of continuing legal education in the area of trial practice for any lawyer who appears as sole or lead counsel in the trial of a criminal case). Although by its terms the rule applies only to counsel appearing in the “Superior or State courts,” this court will respect and enforce the rule in any case involving a potential jury trial. Those attorneys who do not meet the state bar’s educational requirement for litigators will be appointed only in non-jury matters, such as revocation hearings, removal hearings, and federal habeas or 28 U.S.C. § 2255 proceedings that require a hearing. Any attorney receiving an appointment in a criminal case has the burden of advising the court if the state bar’s educational requirement has not been met.

Panel attorneys whose residence and principal office are outside the

district may be appointed from time to time in non-jury matters but will not be appointed in any case that may result in a trial by jury unless the out-of-district attorney volunteers for such appointments.

LR 83.11 provides that “all members of the court’s bar, regardless of age,” are expected to represent indigents on occasion. Once an attorney attains the age of 63, the attorney will be removed from the panel of attorneys unless the attorney indicates a desire to continue to receive CJA appointments. An attorney who maintains an active practice in this court after the age of 63 may still be called upon to represent indigents if, in the discretion of the court, the attorney’s services would be particularly useful in an individual case.

### III.

#### DETERMINATION OF NEED FOR COUNSEL

##### A. When Appearing Before a Magistrate or Court in a Criminal Case

In every criminal case in which the party is charged with a felony or misdemeanor (other than a petty offense, unless the defendant faces likelihood of loss of liberty), or with juvenile delinquency (see 18 U.S.C. 5034), or with a violation of probation, and appears without counsel, the magistrate or the Court shall advise the party that he has the right to be represented by counsel throughout the case and that counsel will be appointed to represent him if he so desires and if he is financially unable to obtain counsel.

Whenever the party states that he is financially unable to obtain counsel and desires the appointment of counsel, if the case is then pending before a magistrate, it shall be the duty of the magistrate to inquire into and to make a finding as to whether the defendant is financially able to obtain counsel. If the case is not pending before a magistrate, it shall be the duty of a judge to conduct such inquiry and to make such finding. An appointment may be made retroactive to include any representation furnished prior to such appointment as is otherwise explained in Subsection B infra. The Court or the magistrate shall appoint separate counsel for defendants having interests that cannot properly be represented by the same counsel, or when other good cause is shown.

All statements made by a defendant in such an inquiry shall be either (1) by affidavit sworn to before a judge, a court clerk, or his deputy, a magistrate, or a notary public, or (2) under oath in open court before a magistrate or a judge.

**B. Counsel for Person Arrested When  
Representation is Required by Law**

Where a person arrested has been represented by counsel before his presentation before a judicial officer under circumstances where such representation is required by law, his counsel may subsequently apply to the Court for approval of compensation. If the Court finds such person has been and is then financially unable to obtain an adequate defense, and that such representation was required by law, compensation will be made retroactive to cover out-of-court time expended by the attorney during the arrest period, and in addition cover compensation for services rendered from the time of his initial presentation before a magistrate, or the Court as the case may be. The Court may make retroactive appointment of counsel where such attorney will continue to represent such party in criminal proceedings in this Court. If the person represented is unavailable at the time counsel applies to the Court for approval of compensation for services rendered during the arrest period, the attorney may nevertheless submit his claim to the Court for approval based on the arrestee's financial condition and a showing that such representation was required by law. Such retroactive appointments and approval of retroactive compensation may be made by the magistrate in proceedings over which he has jurisdiction.

### **C. Other Appointment as of Right**

The Court, or the magistrate as the case may be, may proceed as under Subsection A above to make an appointment of counsel for a person (1) for whom the Sixth Amendment to the Constitution requires the appointment of counsel or (2) for whom, in a case in which he faces loss of liberty, any federal law requires the appointment of counsel.

### **D. Discretionary Appointments**

Any person in custody as a material witness, or seeking relief under 28 U.S.C. 2241, 2255, or 18 U.S.C. 4245 may apply to the Court, or the magistrate as the case may be, to be furnished representation. Such application, unless made in open court, shall be in writing and shall be supported by written affidavit of financial inability to obtain representation. The Court, or the magistrate as the case may be, may approve such representation on a determination that the interests of justice so require and that such person is financially unable to obtain representation.

## **IV.**

### **APPOINTMENT OF COUNSEL**

#### **A. The Magistrate**

In every criminal case in which the party is charged with a felony or misdemeanor (other than a petty offense, unless the defendant faces likelihood of loss of liberty), or with violation of probation, and appears without counsel before a magistrate, it the duty of the magistrate not only to advise the party of his right to counsel before the magistrate and throughout the case, but also promptly to appoint counsel to represent that party if the magistrate finds the party is financially unable to obtain an attorney, unless the party waives his right to be represented by counsel.

The magistrate shall similarly proceed in any proceeding as described in Subsection C of Section III above. In proceedings in which the appointment of counsel is discretionary which have been delegated by the Court to him for determination, the magistrate may proceed as described in Subsection D of Section III above.

The magistrate shall make such appointment on a rotation basis from the panel of attorneys for the appropriate division. The party shall not have the right to select his appointed counsel from the panel of attorneys.

Counsel appointed by a magistrate shall, unless excused by order of Court, continue to act for the party throughout the proceedings in this Court. In the event that a criminal defendant is convicted following trial, counsel appointed hereunder shall advise the defendant of his right of appeal and of his right to counsel on appeal. If requested to do so by the

defendant in a criminal case, counsel shall file a timely notice of appeal, and he shall continue to represent the defendant unless, or until, he is relieved by the District Court or the Court of Appeals. If counsel appointed by a magistrate in any proceeding wishes to be relieved, he shall make written application to the magistrate or judge before whom the case is then pending. Counsel will not be relieved prior to the termination of a case in this Court unless good cause for such relief is shown.

The magistrate before whom a case is pending may, in the interest of justice, substitute one appointed counsel for another at any stage of the proceedings before him.

If at any time after the appointment of counsel the magistrate finds that the party is financially able to obtain counsel or make partial payment for the representation, he may terminate the appointment of counsel or recommend to the Court that any funds available to the party be ordered paid as provided in 18 U.S.C. 3006A(f). In a case being tried by the magistrate or other proceedings delegated by the Court to him for determination, the magistrate himself may order such payment of funds. If at any stage of the trial proceedings the magistrate finds that the party is financially unable to pay counsel whom he had retained or to obtain other counsel, the magistrate may make an original appointment of counsel in accordance with the procedure set forth in this Plan, and counsel may claim compensation for services rendered after such

appointment.

A claim for compensation and reimbursement of expenses of counsel appointed in a case tried before the magistrate shall be made to the magistrate on the prescribed CJA form. The magistrate shall examine each claim, and make recommendations to the Court as to the amount which the Court should fix in accordance with the statute and this Plan, unless the matter is concluded before him, in which case the magistrate himself may approve the claim.

Counsel for a defendant in a case to be tried before the magistrate, and counsel in other proceedings delegated by the Court to the magistrate for determination may, in an ex parte application to the magistrate, request investigative, expert or other services if the defendant is financially unable to obtain them. Upon finding, after appropriate inquiry in an ex parte proceeding, that the services are necessary and that the defendant is financially unable to obtain them, the magistrate shall authorize counsel to obtain such services on behalf of the defendant. The magistrate may, in the interest of justice and upon a finding that timely procurement of necessary services could not await prior authorization, ratify such services after they have been obtained. A claim for any such services shall be reviewed by the magistrate, and he shall fix the amount to be allowed in accordance with the statute. This authority of the magistrate to authorize the procurement of such investigative, expert or other services, to ratify such services after they

have been obtained, and to fix the amount to be allowed for such services, is applicable in petty offense cases being tried by him and in other proceedings delegated by the Court to him for determination. In all other cases he shall, when appropriate, make his recommendation concerning same to the Court.

If the party having a right to counsel is not represented by counsel before the magistrate and waives his right to have appointed counsel, the magistrate shall present to the party a waiver of right to have appointed counsel. If such party executes the waiver, the magistrate shall certify that fact in the record of the proceedings, and the waiver shall be filed in the case file. If such party waives the right to have appointed counsel but refuses to execute such a waiver, the magistrate shall certify that fact in the record of proceedings. If such party admits or the magistrate finds that such party is financially able to obtain counsel but declines to do so, the magistrate shall certify that fact in the record of proceedings.

#### **B. The Clerk**

If counsel has not been appointed by the magistrate or the appointment of such counsel has been terminated by the Court, and the clerk learns from the report of the magistrate, from the United States Attorney, from the party himself, or otherwise, that a party having a right to counsel desires to have counsel

appointed for him, then

1. If no affidavit of financial inability to employ counsel has been filed with the clerk, he shall promptly send to the party a form of affidavit, to be filled out by the party and returned to the clerk; or

2. If the notice to the clerk includes an affidavit of such financial inability to employ counsel, or as soon as the clerk receives such an affidavit, the clerk shall promptly arrange for the appointment of counsel in the manner provided in Subsection C of this section. If in similar circumstances the clerk is apprised of the fact that a party as described in Subsection D of Section III of this Plan desires to apply for a discretionary appointment of counsel, he shall promptly send such party the appropriate CJA forms to be executed and filed in accordance with said Subsection D of Section III.

### **C. The Judge**

Whenever the clerk presents to a judge of this Court a proposed order for the appointment of counsel for a party entitled as of right to counsel and the judge is satisfied that the party desires counsel and is financially unable to employ counsel, the judge shall appoint counsel for him.

If anyone with authority to do so challenges the claimed financial inability of a party to employ a lawyer, the

determination of the defendant's right to have appointed counsel shall be made by a judge of this Court or by a magistrate appropriately designated by this Court.

Whenever it shall appear to the presiding judge at the time of arraignment or at any other time that a party entitled as of right to counsel is not represented by counsel and has not voluntarily waived the assistance of counsel, the judge shall determine whether such a defendant is financially able to obtain counsel and, if not, whether he wishes the judge to appoint counsel for him. The judge may also make a discretionary appointment as provided in Subsection D of Section III. If in either situation the judge concludes that counsel be appointed, such appointment will be made from the appropriate panel.

The appointment of such counsel is the province of the judge. The party shall not have the right to select his appointed counsel from the panel of attorneys.

Counsel appointed by a judge shall, unless excused by order of court, continue to act for the party throughout the proceedings in this Court. In the event that a criminal defendant is convicted following trial, counsel appointed hereunder shall advise the defendant of his right of appeal and of his right to counsel on appeal. If requested to do so by such defendant, counsel shall file a timely notice of appeal, and he shall continue to represent the defendant unless, or until, he is relieved by the Court of Appeals.

A judge may, in the interest of justice, substitute one

appointed counsel for another at any stage of any proceeding in this Court.

#### **D. Redetermination of Need**

If at any stage of the proceeding a judge, or a magistrate as hereinbefore set out in Subsection A of this section, shall find that a party for whom counsel has not previously been appointed under this Plan but who has retained his own attorney, is financially unable to provide for his continued representation, the judge or magistrate may appoint counsel for such party. The Court will ordinarily not appoint the same attorney.

No appointed counsel may request or accept any payment or promise of payment for assisting in the representation of a defendant, unless such payment is approved by order of Court or except under the circumstances set forth in Subsection B of Section III, supra.

If at any time during his appointment, counsel obtains information that a client is financially able to make payment, in whole or in part, for legal or other services in connection with his or her representation and the source of the attorney's information is not protected as a privileged communication, counsel shall advise the Court. The Court will then take appropriate action, which may include permitting assigned counsel to continue to represent the party with part or all of

the cost of representation defrayed by such defendant.

In such event, the amount so paid or payable by the party shall be considered by the Court in determining the total compensation to be allowed to such attorney.

#### **E. Appointment of Counsel in Death Penalty Cases**

In the event that counsel is appointed for a person who has been sentenced to death by a state court and is seeking relief pursuant to 28 U.S.C. 2254, the judicial officer may appoint and compensate under the Criminal Justice Act an attorney furnished by a state or local public defender organization or by a legal aid agency or other private, non-profit organization to represent the person. Such appointments may be in place of, or in addition to, the appointment of a CJA panel attorney or an attorney appointed pro hac vice. Such appointments should be made when the Court determines that they will provide the most effective representation. In making this determination, the Court should take into consideration whether the attorney represented the person during prior state court proceedings.

#### **F. Consulting Services in Capital Federal Habeas Corpus Cases**

Where necessary for adequate representation, Subsection (e) of the Criminal Justice Act authorizes the reasonable employment and compensation of public and private organizations (such as

the Florida Capital Collateral Representative and the California Appellate Project) which provide consulting services to appointed and pro bono lawyers in capital federal habeas corpus cases in such areas as records completion, exhaustion of state remedies, identification of issues, review of draft pleadings and briefs, etc.

#### G. Standby Counsel

Criminal defendants have both a constitutional and statutory right to self-representation in federal court. In some cases, however, the judge or magistrate may find it necessary to appoint "standby" counsel to be available to assist a pro se defendant in his or her defense and also to protect the integrity and ensure the continuity of the judicial proceedings. The CJA, however, provides that "unless the (financially eligible) person waives representation by counsel ... the Court shall appoint counsel to represent him." While the Court has inherent authority to appoint standby counsel, such appointments may not be made and counsel may not be compensated under the CJA unless the defendant qualifies for appointed counsel and representation is actually rendered by counsel. Accordingly, if a financially eligible pro se defendant, a nunc pro tunc CJA appointment order should be effected and counsel may be compensated under the CJA.

On the other hand, in circumstances in which appointment is

made under the Court's inherent authority, and counsel serves exclusively on behalf of the Court to protect the integrity and continuity of the proceedings, and does not represent the defendant, any compensation to be paid counsel shall be in the capacity of an "expert or consultant" pursuant to 5 U.S.C. 3109. Accordingly, an appointment pursuant to this section may be made regardless of whether the defendant is financially able to obtain adequate representation. In such cases, compensation will be determined by the judicial officer in accordance with CJA hourly rates and case compensation maximums. The Criminal Justice Act Division of the Administrative Office should be consulted regarding appointment and payment procedures. If, during the course of the proceedings, a pro se defendant who is financially able to retain counsel elects to do so, the Court's appointment of an attorney pursuant to Section 3109 shall be terminated.

## V.

### INVESTIGATIVE EXPERT AND OTHER SERVICES

#### A. Upon Request

Counsel (whether or not appointed under the Criminal Justice Act) for a party who is financially unable to obtain investigative, expert or other services necessary for an adequate defense in his case may request such services in an ex parte application before a judge, or before a magistrate if the

services are required in connection with a matter over which the magistrate has jurisdiction, or if the judge otherwise refers such application to a magistrate for findings and report. Upon finding, after appropriate inquiry in such an ex parte proceeding, that the services are necessary and that the person is financially unable to obtain them, the Court, or the magistrate as the case may be, shall authorize counsel to obtain the services. The judge or the magistrate may establish a limit on the amount which may be expended or promised for such services within the maximum prescribed by 18 U.S.C. 3006(e)(3).

#### **B. Without Prior Request**

A counsel appointed under the Criminal Justice Act may obtain, subject to later review, investigative, expert, or other services without prior authorization, if necessary for an adequate defense.

The presiding judicial officer is permitted to give nunc pro tunc approval to claims for services obtained without prior authorization, even if the amount exceeds the amount established without prior authorization by the Judicial Conference, where, in the interest of justice, the Court finds that timely procurement of the necessary services could not await prior authorization. See 18 U.S.C. 3006(e)(2)(B).

Judicial officers should enter a separate nunc pro tunc order where appropriate, and attach a copy of the order to the current CJA Form 21.

### **C. Necessity of Affidavit**

The statements made by or on behalf of the party in support of the request under Subsection A or B, supra, shall be made either by affidavit sworn to before the clerk or other appropriate officer, or under oath in open court.

## **VI.**

### **COMPENSATION**

#### **A. Payments to Counsel Appointed Under This Plan**

Payment of fees and expenses to counsel appointed under this Plan and payment for investigative, expert and other services incurred pursuant to Section V hereof shall be made in accordance with such rules and regulations and guidelines as have been or may be prescribed from time to time by the Judicial Conference of the United States, and in accordance with the fiscal policies of the Administrative Office of the United States Courts.

#### **B. Schedule of Maximum Fees for Counsel and Other Services**

Fees as set out in the Administrative Order of this Court are hereby prescribed for this district. In filing their claims for compensation, attorneys should keep in mind that these rates are maximum rates and that claims should not exceed an amount

deemed reasonable to compensate them for services actually rendered.

1. Maximum Hourly Rate for Counsel. Any attorney appointed pursuant to this section or a bar association or legal aid agency or community defender organization which has provided the appointed attorney shall, at the conclusion of the representation or any segment thereof, be compensated at a rate as shall be prescribed from time to time by the Judicial Conference of the United States. Attorneys shall be reimbursed for expenses reasonably incurred, including the costs of transcripts authorized by the magistrate or the Court.

2. Maximum Amounts for Counsel. For representation of a defendant before a magistrate or this Court, or both, the maximum compensation to be paid to an attorney shall be at a rate as shall be prescribed from time to time by the Judicial Conference of the United States. Representation of a defendant on a new trial shall be considered a separate case, and fees shall be paid on the same basis as on the original trial.

3. Waiving Maximum Counsel Fees. Payment in excess of any maximum amount may be made for extended or complex representation whenever the court in which the representation was rendered, or the magistrate if the representation was furnished exclusively before him, certifies that the amount of the excess payment is

necessary to provide fair compensation and the payment is approved by the Chief Judge of the Eleventh Judicial Circuit or his designee.

4. Payment for Services Other than Counsel.

a. Previously approved services. Counsel for a person who is financially unable to obtain investigative, expert, or other services necessary for adequate representation may request them in an ex parte application. Upon finding, after appropriate inquiry in an ex parte proceeding, that the services are necessary and that the person is financially unable to obtain them, the Court, or the magistrate if the services are required in connection with a matter over which he has jurisdiction, shall authorize counsel to obtain the services.

b. Services furnished without prior request.

(i) Counsel appointed under this section may obtain, subject to later review, investigative, expert, and other services without prior authorization if necessary for adequate representation. Except as provided in subparagraph (B) of this paragraph, the total cost of services obtained without prior authorization may not exceed the sum prescribed by the Judicial Conference of the United States and expenses reasonably incurred.

(ii) The Court, or the magistrate if the services were rendered in a case disposed of entirely before him, may, in the interest of justice, and upon the finding that timely procurement of necessary services could not await prior authorization, approve payment for such services after they have been obtained, even if the cost of such services exceeded the amount prescribed by the Judicial Conference of the United States.

c. Maximum amounts. Compensation to be paid to a person for services rendered by him to a person under this subsection, or to be paid to an organization for services rendered by an employee thereof, shall not exceed the amount as prescribed by the Judicial Conference of the United States, exclusive of reimbursement for expenses reasonably incurred, unless payment in excess of that limit is certified by the Court, or by the magistrate if the services were rendered in connection with a case disposed of entirely before him, as necessary to provide fair compensation for services of an unusual character or duration, and the amount of the excess payment is approved by the Chief Judge of the Eleventh Judicial Circuit or his designee.

5. Receipt of Other Payments. Whenever the

magistrate or the Court finds that funds are available for payment from or on behalf of a person furnished representation, it may authorize or direct that such funds be paid to the appointed attorney, to the bar association or legal aid agency or community defender organization which provided the appointed attorney, to any person or organization authorized pursuant to subsection (e) to render investigative, expert, or other services, or to the Court for deposit in the Treasury as a reimbursement to the appropriation, current at the time of payment, to carry out the provisions of this section. Except as so authorized or directed, no such person or organization may request or accept any payment or promise of payment for representing a defendant.

6. Proceedings Before Appellate Courts. If a person for whom counsel is appointed under this section appeals to an appellate court or petitions for a writ of certiorari, he may do so without prepayment of fees and costs or security therefor and without filing the affidavit required by Section 1915(a) of Title 28.

## VII.

### FORMS

Where standard forms have been approved by the Judicial Conference of the United States or an appropriate committee

thereof, and have been distributed by the Administrative Office, such forms shall be used by the Court, the clerk, the magistrates, and counsel.

#### VIII.

##### EFFECTIVE DATE

This plan, after approval by the Judicial Council of the United States Court of Appeals for the Eleventh Circuit, shall become effective immediately.

#### IX.

##### AMENDMENTS

Subject to the approval of the Judicial Council of the United States Court of Appeals for the Eleventh Circuit, amendments to this Plan may be made from time to time by this Court.

#### X.

##### DISTRIBUTION OF PLAN

Upon approval of this Plan by the Judicial Council of the United States Court of Appeals for the Eleventh Circuit, copies

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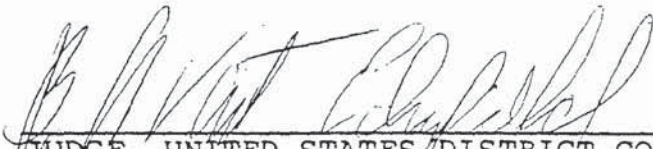
Upon approval of this Plan by the Judicial Council of the United States Court of Appeals for the Eleventh Circuit, copies

of said Plan shall be forthwith distributed by the Clerk of this Court to each United States Magistrate for the Southern District of Georgia, all interested officials of this Court, including the United States Attorney, United States Marshal and United States Probation Officers, and the Administrative Office of the United States Courts.

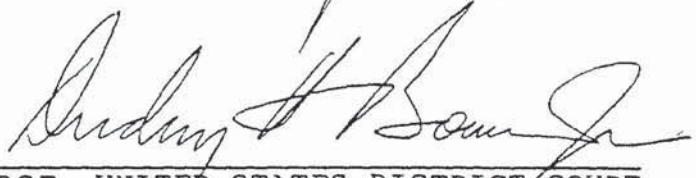
This 14<sup>th</sup> day of October, 1987.



CHIEF JUDGE, U. S. DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA



JUDGE, UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA

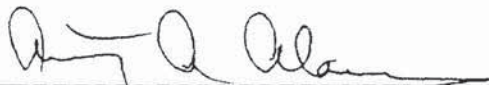


JUDGE, UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA

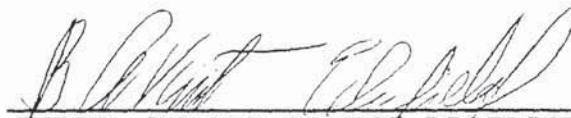
# CERTIFICATION

The undersigned, being all of the active Judges of the United States District Court for the Southern District of Georgia, do hereby certify that the foregoing Plan for the Southern District of Georgia implementing the Criminal Justice Act of 1964, as amended, has been submitted to the Reviewing Panel of the Eleventh Judicial Circuit and a copy thereof has this date been transmitted by mail to The Attorney General of the United States and to the Director of the Administrative Office of the United States Courts, respectively.

This 14<sup>TH</sup> day of October, 1987.



CHIEF JUDGE, U. S. DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA



JUDGE, UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA



JUDGE, UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA

ORIGINAL

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA

ADDENDUM TO THE PLAN  
FOR THE IMPLEMENTATION OF  
THE CRIMINAL JUSTICE ACT OF 1964,  
AS AMENDED, 18 U.S.C. § 3006A

WHEREAS, the number of death row inmates who will exhaust their state court remedies and be in a position to seek federal habeas corpus relief in this district is expected to increase;

WHEREAS, representation of persons who have been convicted and sentenced to death requires a specialized knowledge of state and federal appellate procedure, certiorari practice, state and federal habeas corpus procedure, criminal and Eighth Amendment jurisprudence, and entails an extraordinary commitment of time;

WHEREAS, this court is responsible for ensuring the adequate representation of financially eligible persons seeking federal habeas corpus relief when such representation is required in the interest of justice;

WHEREAS, the Georgia Appellate Practice and Educational Resource Center, Inc. is a non-profit defense counsel service designed to furnish representation, and assistance in connection with the representation, of death-sentenced inmates in the state of Georgia;

WHEREAS, subsection (g) of the Criminal Justice Act of 1964, as amended, 18 U.S.C. § 3006A [hereinafter referred to as "the Act"] authorizes the establishment of Community Defender Organizations in adjacent districts in which at least 200 persons annually require the appointment of counsel and the Northern, Middle and Southern districts of Georgia meet that requirement,

IT IS THEREFORE ORDERED, that the Plan for the Implementation of the Criminal Justice Act for the Southern District of Georgia, (dated 10/14/87 ), is hereby amended to provide for the designation of Georgia Appellate Practice and Educational Resource Center, Inc. as a Community Defender Organization in accordance with subsection (g)(2)(B) of the Act, and subject to the conditions set forth below:

1. The Georgia Appellate Practice and Educational Resource Center, Inc. is authorized by this Plan to provide representation, assistance, information, and other related services to eligible persons and appointed attorneys in connection with federal death penalty habeas corpus cases pursuant to subsection (g)(2)(B) of the Act. As provided in the Criminal Justice Act Plans for the Northern, Middle, and Southern Districts of Georgia, the Community Defender Organization also may provide such services in those courts. The by-laws of the Georgia Appellate Practice and Educational Resource Center, Inc. are incorporated as part of the Plan, and a copy of said by-laws shall be maintained by the Clerk of Court and attached to the original of this Plan.

2. The Georgia Appellate Practice and Educational Resource Center, Inc. shall operate pursuant to the provisions of subsection (g)(2)(B) of the Act, the terms and conditions of the sustaining grant, and the Guidelines for the Administration of the Criminal Justice Act, [Volume VII, Guide to Judiciary Policies and Proceedings], promulgated by the Judicial Conference of the United States pursuant to subsection (h) of the Act.

3. The Georgia Appellate Practice and Educational Resource Center, Inc. shall submit to the Judicial Conference of the United States an annual report setting forth its activities and financial position and the anticipated caseload and expenses for the next fiscal year.

4. The Georgia Appellate Practice and Educational Resource Center, Inc. shall furnish to this court the initial roster of staff attorneys and shall report any changes thereto to the court.

5. The primary goal of the Georgia Appellate Practice and Educational Resource Center, Inc. will be to assist the Court in ensuring that adequate representation is provided to persons under death sentence who seek federal habeas corpus relief. Toward that end the Georgia Appellate Practice and Educational Resource Center, Inc. will perform the following functions:

(a) The Georgia Appellate Practice and Resource Center, Inc. shall monitor all capital litigation in the state of Georgia.

(b) The Georgia Appellate Practice and Educational Resource Center, Inc. shall screen and recruit qualified members of the private bar who are willing to provide representation in death penalty post-conviction proceedings in federal court and submit a list of such attorneys to the court for approval as a "Special Death Penalty Habeas Corpus Panel."

(c) In each federal death penalty habeas corpus case in which the court has determined that counsel shall be appointed, the Georgia Appellate Practice and Educational Resource Center, Inc. shall provide to the court the name of the next available member of the "Special Death Penalty Habeas Corpus Panel." In cases where the interest of justice requires the appointment of more than one attorney, the Georgia Appellate Practice and Educational Resource Center, Inc. shall furnish the names of two attorneys.

(d) The Georgia Appellate Practice and Educational Resource Center, Inc. shall be authorized to serve as counsel of record, and shall recommend to the Court those cases in which its appointment as counsel of record is appropriate.

(e) Upon the request, pursuant to subsection (e) of the Act and paragraph 3.16 of the Guidelines for the Administration of the Criminal Justice Act, of appointed or pro bono counsel in a federal habeas corpus death penalty case, the Georgia Appellate Practice and Educational Resource Center, Inc. shall provide consulting services in such areas as, but not limited to, records completion, exhaustion of state remedies, identification of issues, review of draft pleadings and briefs.

(f) The Georgia Appellate Practice and Educational Resource Center, Inc. will coordinate resources with other state and national organizations providing legal assistance to death-sentenced inmates.

(g) The Georgia Appellate Practice and Educational Resource Center, Inc. will maintain a brief bank and clearinghouse of materials to assist lawyers in death penalty habeas corpus cases in federal courts.

(h) The Georgia Appellate Practice and Educational Resource Center, Inc. will perform such other tasks as may be necessary to ensure that adequate representation is provided to financially eligible persons in federal death penalty habeas corpus proceedings.

6. In order to ensure the effective supervision and management of the Georgia Appellate Practice and Educational Resource Center, Inc., its Executive Director or Chief Attorney will be responsible for the assignment of cases [both as counsel of record and as consultant] among the staff attorneys in that office. Accordingly, the court will assign cases in the name of the Executive Director or Chief Attorney rather than in the name of individual staff attorneys.

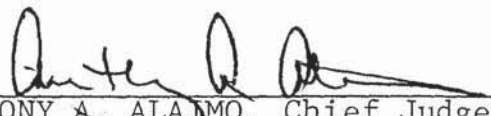
7. The Georgia Appellate Practice and Educational Resource Center, Inc. may obtain investigative, expert, or other services without regard to the requirements or limitations set forth in the Plan dated 10/14/87 with respect to procurement of such services by panel attorneys, provided that total expenditures of the organization for investigative, expert, and other services do not exceed its grant authorization for these specific categories.

The provisions of the Plan dated 10/14/87 shall remain in effect except to the extent that they are inconsistent with the provisions of this addendum, in which case the provisions of the addendum shall govern.

This amendment shall take effect upon its approval by the Judicial Council of the Eleventh Circuit.

THIS 18<sup>th</sup> day of December, 1987.

FOR THE COURT:

  
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ANTHONY A. ALAMO, Chief Judge